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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,576	12/18/2000	Paul G. Allen	4000.2.2	3522
32641	7590	06/16/2005	EXAMINER	
DIGEO, INC C/O STOEL RIVES LLP 201 SOUTH MAIN STREET, SUITE 1100 ONE UTAH CENTER SALT LAKE CITY, UT 84111			SHANNON, MICHAEL R	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/739,576	ALLEN, PAUL G.
	Examiner	Art Unit
	Michael R. Shannon	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050209</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 10-15, filed 7 February 2005, with respect to the rejection(s) of claim(s) 1-7, 10-17, 19-23, and 26-33 under 35 USC 102(e) as being anticipated by Darbee et al; claims 8, 18, 24, and 34 under 35 USC 103(a) as being unpatentable over Darbee in view of Klosterman et al; and claims 9, 25, and 35 under 35 USC 103(a) as being unpatentable over Darbee in view of Saitoh et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Allport (USP 6,097,441), cited by examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 8-16, 19-32, and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Allport (USP 6,097,441), cited by examiner.

The Allport patent number 9,097,441 (hereinafter, the 441 reference) incorporates by reference, Allport patent number 6,104,334 (hereinafter, the 334

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reference), which will be partially relied upon for the following rejections (mainly for the specifics of the remote control display and functionality).

Regarding claim 1, the claimed “remote control device for scheduling television recordings without interfering with a television program being currently watched on a television” is met as follows:

- The claimed “wireless receiver for receiving television program schedule information from an interactive television system” is met by the 441 reference, wherein the remote control of Figure 4 receives data streams from base station unit 75 through RF antenna 280 [441 reference, col. 9, lines 28-31]. The data streams consist of TV schedule data [334 reference, col. 5, lines 59-72].
- The claimed “display device for displaying the television program schedule information” is met by Figure 1 of the 441 reference, in which element 15 represents display device (LCD display 15). Also, as discussed in column 5, lines 59-62 of the 334 reference, the display is used for displaying schedule information.
- The claimed “input device for receiving a user selection of a television program from the displayed television program schedule information” is met by the touch screen 375 of Figure 4 [441 reference]. The consumer places requests for programming by touching the screen in appropriate locations [441 reference, col. 16, lines 10-11].

- The claimed “wireless transmitter for transmitting an indication of the selected television program to the interactive television system to schedule recording of the selected television program by a recording device” is met by the IrDA port 645 of Figure 18 of the 334 reference, which controls devices by transmitting control commands through the port [334 reference, col. 27, lines 41-51]. Also, column 15, lines 31-41 teach that a user can select a program for recording and the IR port sends IR commands right away or in the future to effect recording of the desired program [334 reference, col. 15, lines 31-41].

Regarding claim 2, the claimed “wireless receiver comprises a radio-frequency receiver” is met by the RF Antenna 280 [441 reference, Fig. 4], which can receive information sent from the base station unit 75 [441 reference, col. 10, lines 17-18].

Regarding claim 3, the claimed “wireless receiver comprises an infrared receiver” is met by IrDA port 360 [441 reference, Fig. 4], which can receive information sent from the base station unit 75 [441 reference, col. 10, lines 17-18].

Regarding claim 4, the claimed “processor integrated with the remote control for generating an electronic programming guide from the television program schedule information, the electronic programming guide for display on the display device” is met by the processor 605 of Figure 18 [334 reference], which can process, list, and browse TV schedules on the display [334 reference, col. 5, lines 59-62].

Regarding claim 5, the claimed “electronic programming guide comprises a plurality of rows corresponding to channels and a plurality of columns corresponding to

time slots" is met by Fig. 5, which shows the TV schedule sorted according to Channel and time [334 reference, Fig. 5].

Regarding claim 6, the claimed "indication of the television program comprises an indication of at least a channel and a start time" is met by the information sent to the device to effect playing or recording as discussed previously in the rejection to claim 1. The information can consist of broadcast time, channel, and duration [334 reference, col. 6, lines 5-13].

Regarding claim 8, the claimed "wireless receiver is to receive a secondary television signal from the interactive television system for display on the display device" is met by the capability of the display device to display images produced by broadcast TV signals [441 reference, col. 6, lines 18-20] and the fact that the data streams pass from the base station unit 75 to the remote control 10 via wireless communications capable of transmitting full motion vide [441 reference, col. 10, lines 9-15].

Regarding claim 9, the claimed "display device is touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the display device" is met by the touch screen 375 of Figure 4 [441 reference]. The consumer places requests for programming by touching the screen in appropriate locations [441 reference, col. 16, lines 10-11].

Regarding claim 10, the claimed "entertainment system" is met as follows:

- The claimed "set top box configured to provide a television signal to a first display device, the set top box further configured to store television program schedule information" is met by the base station unit 75, which

firstly sends television signals to TV via line 105 [Fig. 2], and which secondly contains flash ROM 210 [Fig. 3] for storing working information (such as TV schedules that can later be downloaded to the remote control as previously discussed) [441 reference, col. 14, lines 25-29].

- The claimed “remote control for the set top box configured to receive the television program schedule information from the set top box using a wireless method” is met by the 441 reference, wherein the remote control of Figure 4 receives data streams from base station unit 75 through RF antenna 280 [441 reference, col. 9, lines 28-31]. The data streams consist of HTML schedule data [441 reference, col. 6, lines 49-54]. The TV schedules can be downloaded into the memory of the remote and then listed and browsed [334 reference, col. 5, lines 59-62]. The claimed “remote control comprising a second display device configured to display the television program schedule information” is met by the LCD screen of Figure 1 [441 reference], which can display TV schedule information [334 reference, col. 5, lines 59-62]. The claimed “wherein the remote control is further configured to receive a secondary television signal for display on the second display device” is met by the capability of the display device to display images produced by broadcast TV signals [441 reference, col. 6, lines 18-20] and the fact that the data streams pass from the base station unit 75 to the remote control 10 via wireless communications capable of transmitting full motion vide [441 reference, col. 10, lines 9-15].

Regarding claim 11, the claimed set top box comprises a wireless transmitter configured to transmit the television program schedule information and secondary television signal to the remote control" is met by the RF antenna 185 of Figure 3 [441 reference], which serves to send data and television signals to the remote control. The TV schedules can be downloaded over this link [334 reference, col. 5, lines 59-62] and television signals can be displayed over this link [441 reference, col. 10, lines 9-15].

Regarding claim 12, the claimed "wireless transmitter comprises at least one of a radio-frequency transmitter and an infrared transmitter" is met by the RF Antenna 185 [441 reference, Fig. 3], which can send information from the base station unit 75 to the remote control [441 reference, col. 10, lines 17-18].

Regarding claim 13, the claimed "remote control comprises a wireless receiver configured to receive the television program schedule information and the secondary television signal from the wireless transmitter in the set top box" is met by the 441 reference, wherein the remote control of Figure 4 receives data streams from base station unit 75 through RF antenna 280 [441 reference, col. 9, lines 28-31]. The data streams consist of TV schedule data [334 reference, col. 5, lines 59-72] and secondary television signals [441 reference, col. 10, lines 9-15].

Regarding claim 14, the claimed "wireless receiver comprises at least one of a radio-frequency receiver and an infrared receiver" is met by the RF Antenna 280 [441 reference, Fig. 4], which can receive information sent from the base station unit 75 [441 reference, col. 10, lines 17-18].

Regarding claim 15, the claimed “network stores a database comprising television program schedule information, and wherein the set top box comprises a network interface configured to access the database and receive the television program schedule information from the network” is met by the ability to download the TV schedule information from the internet (inherently a database connected to the internet) and use that TV schedule in the system [334 reference, col. 5, line 50 – col. 6, line 13].

Regarding claim 16, the claimed “network comprises a cable network” is met by the mention of Cable TV as a source of video and audio signals 85 with embedded HTML (such as EPG data) [441 reference, Fig. 3].

Regarding claim 19, the claimed “set top box is configured to receive the television program schedule information in response to a request from the set top box” is met by the ability for the consumer and therefore, the set top box to request information from the internet or other data source and download it into the memory of the remote control [334 reference, col. 6, lines 26-30].

Regarding claim 20, the claimed “remote control comprises a processor configured to generate an electronic programming guide from the television program schedule information, the electronic programming guide for display on the second display device” is met by the processor 605 of Figure 18 [334 reference], which can process, list, and browse TV schedules on the display [334 reference, col. 5, lines 59-62].

Regarding claim 21, the claimed “electronic programming guide comprises a plurality of rows corresponding to channels and a plurality of columns corresponding to

time slots" is met by Fig. 5, which shows the TV schedule sorted according to Channel and time [334 reference, Fig. 5].

Regarding claim 22, the claimed "electronic programming guide comprises at least one indication of a television program, and wherein the remote control comprises a wireless transmitter configured to transmit a control signal in response to a user selection of a television program from the electronic programming guide" is met by the IrDA port 645 of Figure 18 of the 334 reference, which controls devices by transmitting control commands through the port [334 reference, col. 27, lines 41-51]. Column 6, lines 2-5 teach the ability to send an IR Command to devices to effect the playing of the program selected by the consumer [334 reference, col. 6, lines 2-5]. Also, column 15, lines 31-41 teach that a user can select a program for recording and the IR port sends IR commands right away or in the future to effect recording of the desired program [334 reference, col. 15, lines 31-41].

Regarding claim 23, the claimed "system of claim 22, wherein the control signal is configured to cause the first display device to display the selected television program" is met by column 6, lines 2-5 of the 334 reference, wherein Allport teaches the ability to send an IR Command to devices to effect the playing of the program selected by the consumer [334 reference, col. 6, lines 2-5].

Regarding claim 24, the claimed "system of claim 22, wherein the control signal is configured to cause a video recording device to record the selected television program" is met by column 15, lines 31-41 of the 334 reference, wherein Allport teaches that a user can select a program for recording and the IR port sends IR commands right

away or in the future to effect recording of the desired program [334 reference, col. 15, lines 31-41].

Regarding claim 25, the claimed “second display device is touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the second display device” is met by the touch screen 375 of Figure 4 [441 reference]. The consumer places requests for programming by touching the screen in appropriate locations [441 reference, col. 16, lines 10-11].

Regarding claim 26, the claimed “method for providing an electronic programming guide for scheduling television recordings without interfering with a television program being currently watched on a television” is met as follows:

- The claimed steps of “receiving television program schedule information at a set top box and transmitting the television program schedule information to a remote control for the set top box” are met by the 441 reference, wherein the remote control of Figure 4 receives data streams from base station unit 75 through RF antenna 280 [441 reference, col. 9, lines 28-31]. The data streams consist of TV schedule data [334 reference, col. 5, lines 59-72] downloaded over the Internet.
- The claimed step of “displaying the television program schedule information on a display device integrated with the remote control” is met by Figure 1 of the 441 reference, in which element 15 represents display device (LCD display 15). Also, as discussed in column 5, lines 59-62 of the 334 reference, the display is used for displaying schedule information.

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- The claimed step of “receiving a user selection of a television program from the displayed television program schedule information” is met by the touch screen 375 of Figure 4 [441 reference]. The consumer places requests for programming by touching the screen in appropriate locations [441 reference, col. 16, lines 10-11].
- The claimed step of “transmitting an indication of the selected television program to the interactive television system to schedule recording of the selected television program by a recording device” is met by the IrDA port 645 of Figure 18 of the 334 reference, which controls devices by transmitting control commands through the port [334 reference, col. 27, lines 41-51]. Also, column 15, lines 31-41 teach that a user can select a program for recording and the IR port sends IR commands right away or in the future to effect recording of the desired program [334 reference, col. 15, lines 31-41].

Regarding claim 27, the claimed “wherein the network stores a database comprising the television program schedule information, and wherein receiving comprises receiving the television program schedule information from the network” is met by the ability to download the TV schedule information from the internet (inherently a database connected to the internet) and use that TV schedule in the system [334 reference, col. 5, line 50 – col. 6, line 13].

Regarding claim 28, the claimed “wherein the network comprises a cable network” is met by the mention of Cable TV as a source of video and audio signals 85 with embedded HTML (such as EPG data) [441 reference, Fig. 3].

Regarding claim 29, the claimed “method of claim 26, wherein transmitting comprises transmitting the television program schedule information from a wireless transmitter in the set top box to a wireless receiver in the remote control” is met by the RF antenna 185 of Figure 3 [441 reference], which serves to send data and television signals to the remote control. The TV schedules can be downloaded over this link [334 reference, col. 5, lines 59-62] and television signals can be displayed over this link [441 reference, col. 10, lines 9-15].

Regarding claim 30, the claimed “method of claim 26, wherein displaying comprises generating an electronic programming guide from the television program schedule information for display on the display device” is met by the processor 605 of Figure 18 [334 reference], which can process, list, and browse TV schedules on the display [334 reference, col. 5, lines 59-62].

Regarding claim 31, the claimed “electronic programming guide comprises a plurality of rows corresponding to channels and a plurality of columns corresponding to time slots” is met by Fig. 5, which shows the TV schedule sorted according to Channel and time [334 reference, Fig. 5].

Regarding claim 32, the claimed “indication of the television program comprises an indication of at least a channel and a start time” is met by the information sent to the device to effect playing or recording as discussed previously in the rejection to claim 1.

The information can consist of broadcast time, channel, and duration [334 reference, col. 6, lines 5-13].

Regarding claim 34, the claimed "wireless receiver is to receive a secondary television signal from the interactive television system for display on the display device integrated with the remote control" is met by the capability of the display device to display images produced by broadcast TV signals [441 reference, col. 6, lines 18-20] and the fact that the data streams pass from the base station unit 75 to the remote control 10 via wireless communications capable of transmitting full motion vide [441 reference, col. 10, lines 9-15].

Regarding claim 35, the claimed "display device is touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the display device" is met by the touch screen 375 of Figure 4 [441 reference]. The consumer places requests for programming by touching the screen in appropriate locations [441 reference, col. 16, lines 10-11].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 17-18, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allport (USP 6,097,441), cited by examiner.

Regarding claim 7, the Allport reference teaches all of that which is discussed above with regards to claim 6. However, the Allport reference makes no specific mention of the use of VCRPlus codes to effect the recording of a selected program. The examiner takes Official Notice that it is notoriously well known in the art to use VCRPlus codes as a way of effecting recording of programs without the user having to know and/or program the details of the recording. The applicant goes as far as to admit that the use of VCRPlus codes simply indicate a program (likewise to the use of a channel and start time indication) [see applicant remarks filed 7 February 2005, page 12, lines 5-6]. The indication (as taught by Allport in the 334 reference, column 15, lines 31-41) of IR commands to effect the recording of a selected program is done without user knowledge of the details of programming or setting up the specific recording details (which is the same concept used in VCRPlus). Therefore, the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to utilize VCRPlus codes, in order to present a consumer-friendly device that would react to how the consumer requests a record command of a title-based program description as suggested by Allport [334 reference, col. 9, lines 21-43].

Regarding claim 17, the Allport reference discloses all of that which is discussed above with regards to claim 15. The Allport reference, does not, however, disclose that the set top box is configured to receive automatic updates of the television program schedule information from the network. The examiner takes Official Notice that it is notoriously well known in the art to provide EPG information to the user on a rotating carousel (automatically updated) basis. Therefore, the examiner submits that it would

have been clearly obvious to one of ordinary skill in the art at the time of the invention to automatically update the television schedule information, in order to provide the most current EPG information to the user without the user having to actually make a physical request for the information, thereby providing a user-free download of the most current EPG data.

Regarding claim 18, the Allport reference discloses all of that which is discussed above with regards to claim 17. The Allport reference, does not, however, disclose that the automatic updates of the television program schedule information are received using a carousel technique. The examiner takes Official Notice that it is notoriously well known in the art to provide EPG information to the user on a rotating carousel (automatically updated) basis. Therefore, the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to automatically update the television schedule information using a carousel delivery technique, in order to provide the most current EPG information to the user without the user having to actually make a physical request for the information, thereby providing a user-free download of the most current EPG data.

Regarding claim 33, the Allport reference teaches all of that which is discussed above with regards to claim 32. However, the Allport reference makes no specific mention of the use of VCRPlus codes to effect the recording of a selected program. The examiner takes Official Notice that it is notoriously well known in the art to use VCRPlus codes as a way of effecting recording of programs without the user having to know and/or program the details of the recording. The applicant goes as far as to admit

that the use of VCRPlus codes simply indicate a program (likewise to the use of a channel and start time indication) [see applicant remarks filed 7 February 2005, page 12, lines 5-6]. The indication (as taught by Allport in the 334 reference, column 15, lines 31-41) of IR commands to effect the recording of a selected program is done without user knowledge of the details of programming or setting up the specific recording details (which is the same concept used in VCRPlus). Therefore, the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to utilize VCRPlus codes, in order to present a consumer-friendly device that would react to how the consumer requests a record command of a title-based program description as suggested by Allport [334 reference, col. 9, lines 21-43].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Shannon who can be reached at (571) 272-7356 or Michael.Shannon@uspto.gov. The examiner can normally be reached by phone Monday through Friday 8:00 AM – 5:00PM, with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

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Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(571) 272-2600.**

Michael R Shannon
Examiner
Art Unit 2614

Michael R Shannon
June 9, 2005


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600